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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,923	06/26/2001	Bret P. O'Rourke	MS1-655US	3843

22801 7590 09/08/2004	**EXAMINER**	
LEE & HAYES PLLC	GODDARD, BRIAN D	
421 W RIVERSIDE AVENUE SUITE 500		
SPOKANE, WA 99201	**ART UNIT**	**PAPER NUMBER**
	2171	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/892,923	O'ROURKE ET AL.
	Examiner	Art Unit	
	Brian Goddard	2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 July 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-44</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-44</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>26 June 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 June

2004 has been entered.

2.   Claims 1-44 are pending in this application. Claims 1, 17, 20 and 31 are

independent claims. In the Amendment of 23 June 2004, no claims were cancelled or

added, and claims 11, 13, 18 and 29 were amended. This action is non-final.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed
publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3.   Claims 1-4, 6-7, 20-21, 23, 25, 30-34 and 36 are rejected under 35 U.S.C. 102(a)

as being anticipated by the article entitled "Representing Internet Streaming Media

Metadata using MPEG-7 Multimedia Description Schemes" by Rehm.

Referring to claim 1, Rehm discloses a method for managing streaming media content as claimed. See the Abstract and Sections 1, 3 and 5 for the details of this disclosure. Rehm teaches "a method for managing streaming media content, the method comprising:

accessing [receive or 'encounter'], by a computing device [server, 'automated system'], a first playlist [See Sections 3.1 & 5.4 (also termed 'proprietary schema')] that has a non-canonical [e.g. proprietary] data format [e.g. M3U, PLS, ASX];

providing [See Section 5.4], by a computing device [See above], a plurality of translators [XSL stylesheets] that translate playlists ['transform the data conforming to the proprietary XML schema'] from a plurality of different non-canonical formats [See above] to a canonical playlist format [MPEG-7 Segment DS and Segment Decomposition DS (See Sections 3.1 & 5.4)];

calling, by a computing device, one of the translators to translate [See Section 5.4] the first playlist into the canonical playlist format, forming a second playlist [See Abstract & Sections 1 and 5] in the canonical playlist format; and

retrieving ['playback'], by a computing device [e.g. server to client (or any networked device)], media content referenced by the second playlist [See Abstract & Sections 1 and 5]" as claimed.

Referring to claim 2, Rehm discloses the method for managing streaming media content as claimed. See the Abstract and Sections 1 and 5 for the details of this disclosure. Rehm teaches the method of claim 1, as above, wherein retrieving, the

computing device is a server that is coupled to a client computing device [See above], and wherein retrieving further comprises:

streaming, by the server, content [multimedia (AV) data] referenced by the second playlist to the client computing device [See Abstract & Sections 1 and 5] as claimed.

Referring to claim 3, Rehm discloses the method for managing streaming media content as claimed. See the Abstract and Sections 1 and 5 for the details of this disclosure. Rehm teaches the method of claim 1, as above, wherein accessing, providing, calling and retrieving are performed by a single computing device [the server], and wherein the method further comprises rendering/playing [playback], by the single computing device, content referenced by the second playlist in a manner that the single computing device is a client for the content [received by the server from 'a network of streaming media encoding firms and audio-visual content providers' (See Section 5.4)] as claimed.

Referring to claim 4, Rehm discloses the method for managing streaming media content as claimed. See the Abstract and Sections 1 and 5 for the details of this disclosure. Rehm teaches the method of claim 1, as above, wherein forming a second playlist in the canonical format [See above] comprises dynamically generating, by a computing device [the server], a data structure [MPEG-7 Segment DS and Segment Decomposition DS (See Section 3.1)] comprising the second playlist [See above], the data structure being used to manage streaming content referenced by the second playlist [See Abstract & Sections 1-5] as claimed.

Referring to claim 6, Rehm discloses the method for managing streaming media·

content as claimed. See the Abstract and Sections 1, 3 & 5 for the details of this

disclosure. Rehm's method further comprises dynamically streaming [See Abstract and

Sections 1 & 5], by a server computing device [See above], a different set of media

content [a different file: any other file in the database] to a client computing device [See

above] coupled to the server computing device across a network [See Section 5], the

different media content not being represented in the second playlist [other AV content

stored in the server's database] as claimed.

Referring to claim 7, Rehm discloses the method for managing streaming media

content as claimed. See the Abstract and Sections 1, 3 & 5 for the details of this

disclosure. Rehm teaches the method of claim 1, as above, wherein the translators

[XSLT] are COM objects [See Sections 3.1, 3.3 & 5.5] as claimed.

Claim 20 is rejected on the same basis as claim 2. See the discussions

regarding claims 1-2 above for the details of this disclosure. In particular, Rehm's

method is implemented on a computer-readable media [on the server system]

comprising computer-executable instructions comprising a playlist server component

and a plurality of translator components [see claim 1 above] as claimed.

Claim 21 is rejected on the same basis as claim 3, in light of the basis for claim

20 above. See the discussions regarding claims 1 and 3 above for the details of this

disclosure.

Claim 23 is rejected on the same basis as claim 6, in light of the basis for claim

20 above. See the discussions regarding claims 1 and 6 for the details of this

disclosure.

Claim 25 is rejected on the same basis as claim 7, in light of the basis for claim

20 above. See the discussions regarding claims 1 and 7 for the details of this

disclosure.

Claim 30 is rejected on the same basis as claim 20. See the discussion

regarding claim 20 above for the details of this disclosure.

Claims 31-33 are rejected on the same basis as claims 1-3 respectively. See the

discussions regarding claims 1-3 above for the details of this disclosure.

Claim 34 is rejected on the same basis as claim 7, in light of the basis for claim

31 above. See the discussions regarding claims 1 and 7 for the details of this

disclosure.

Claim 36 is rejected on the same basis as claim 6, in light of the basis for claim

31 above. See the discussions regarding claims 1 and 6 for the details of this

disclosure.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

4.   Claims 8-9, 24 and 38-39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rehm in view of the press release "W3C Issues First Public Draft of

Synchronized Multimedia Integration Language (SMIL)" by the World Wide Web

Consortium (hereinafter "W3C").

Referring to both claims 8 and 9, Rehm discloses the method of claim 1 as

above, wherein the canonical playlist format is MPEG-7 Segment DS and Segment

Decomposition DS (See Section 3.1) and an XSLT interface is used to create the

second playlist. Rehm does not teach the use of a SMIL data format and a SMIL

interface for the canonical playlist as claimed. However, Rehm does disclose SMIL as a

potential playlist format that is convertible, and further discloses some of the

advantages of using SMIL, including ability for detailed temporal segmenting, in Section

3.1. Further, Rehm discusses the difficulties and deficiencies of the MPEG-7 MDS in

Section 4, including difficulties with temporal segmenting. This provides suggestion for

using SMIL as the canonical playlist format in Rehm's system, as this would make up

for the deficiencies noted by Rehm himself.

W3C discloses the use of SMIL as an industry standard (canonical) playlist

format, listing its advantages and features including the ease of authoring or converting

to a SMIL format using a SMIL interface [a simple text editor at the minimum, or more

conveniently an XSL stylesheet (same as used by Rehm)].

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use a SMIL interface [particularly XSL stylesheets for conversion

to SMIL] to create Rehm's canonical playlists in a SMIL data format as opposed to the

MPEG-7 MDS format disclosed. One would have been motivated to do so because of

Rehm's direct suggestion shown above, and further because of W3C's suggestion for making SMIL the industry standard format.

Claim 24 is rejected on the same basis as claim 8, in light of the basis for claim 20 above. See the discussions regarding claims 1 and 8 for the details of this disclosure.

Claims 38-39 are rejected on the same basis as claims 8-9 respectively, in light of the basis for claim 31 above. See the discussions regarding claims 1 and 8-9 for this disclosure.

5.   Claims 5, 10-19, 22, 26-29, 35, 37 and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rehm in view of U.S. Patent No. 5,974,503 to Venkatesh et al.

Referring to claim 5, Rehm does not explicitly teach the ability to dynamically interrupt a particular media item as it is being streamed from the second playlist as claimed. This, however, is only because Rehm is silent on details of streaming playback.

Venkatesh discloses a system and method similar to that of Rehm, wherein the streaming media (audio/video) can be dynamically interrupted for insertion, deletion, or other editing of media items being streamed from a playlist. See Figures 34-37 and the corresponding portions of Venkatesh's specification for this disclosure. In particular, Venkatesh teaches dynamically interrupting [editing break-in] a particular media item [clip] as it is being streamed ['during playback of clips in the playlist...during the

streaming of continuous media data' (column 44, lines 44-51)] from a playlist as claimed. Refer specifically to columns 44-48 for the details of this disclosure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add Venkatesh's dynamic playlist editing functionality to the system and method of Rehm so as to allow dynamic interruption of a streaming media item for editing of the playlist. One would have been motivated to do so in order to afford the user greater control and functionality in the streaming of media content to a client terminal, as provided by Venkatesh.

Referring to claim 10, the system and method of Rehm in view of Venkatesh as applied to claim 5 above discloses the invention as claimed. See Figures 34-37 and the corresponding portions of Venkatesh's specification for this disclosure. In particular, Rehm v. Venkatesh teaches the method as recited in claim 1, further comprising:

providing, by a computing device, one or more transformers [Venkatesh's dynamic playlist editing functions] that impose respective policies [editing functions] on content referenced by the first playlist; and

notifying [issuance of an edit command], by a computing device, at least one transformer of the one or more transformers to impose a policy [edit function] on the content referenced by the second playlist as claimed.

Referring to claim 11, the system and method of Rehm in view of Venkatesh as applied to claim 10 above discloses the invention as claimed. See columns 44-48 of Venkatesh's specification for this disclosure. In particular, Rehm v. Venkatesh teaches the method of claim 10, wherein imposing the policy [edit function] results in a

modification to the second playlist, the modification being (a) removing a reference [clip] from the second playlist, or (b) adding a reference [clip] to the second playlist as claimed.

Referring to claim 12, the system and method of Rehm in view of Venkatesh as applied to claim 10 above discloses the invention as claimed. Venkatesh's dynamic playlist editing functions (transformers), as added to the system and method of Rehm above, are not explicitly disclosed as COM objects as claimed. However, Rehm's translators/encoders are explicitly disclosed as COM objects. Thus, in adding Venkatesh's dynamic playlist editing functions (transformers) to Rehm's system as above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement them as COM objects to obtain the invention as claimed. One would have been motivated to do so in order to conform to Rehm's server structure as described above.

Claim 13 is rejected on the same basis as claim 11. See the discussion regarding claim 11 above for the details of this disclosure.

Claim 14 is rejected on the same basis as claim 11, in light of the basis for claim 5 above. See the discussions regarding claims 1, 5 and 10-11 for the details of this disclosure.

Referring to claim 15, the system and method of Rehm in view of Venkatesh as applied to claim 13 above discloses the invention as claimed. See the discussions above and the relevant portions of each specification for the details of this disclosure.

In particular, Rehm v. Venkatesh discloses the method as recited in claim 13, the

operations further comprising:

    dynamically interrupting, by the supervisory component, a particular media item

as it is being streamed [see discussion of claim 5 above];

    streaming, by the supervisory component, another media item [clip added to the

playlist]; and

    resuming, by the supervisory component, a set of operations specified by the

second playlist [continuing regular playback of the playlist after the inserted clip]" as

claimed.

    Claim 16 is rejected on the same basis as claim 12, in light of the basis for claim

13 above. See the discussions regarding claims 1, 10, 12 and 13 for the details of this

disclosure.

    Claim 17 is rejected on the same basis as claim 10. See the discussions

regarding claims 1 and 10 above for the details of this disclosure.

    Claim 18 is rejected on the same basis as claim 11, in light of the basis for claim

10 above. See the discussions regarding claims 1, 10 and 11 for the details of this

disclosure.

    Claim 19 is rejected on the same basis as claim 17. See the discussion

regarding claim 17 above for the details of this disclosure. In particular, the method of

Rehm v. Venkatesh is implemented on a computer-readable media [on Rehm's server

system] comprising computer executable instructions as claimed.

Claim 22 is rejected on the same basis as claim 5, in light of the basis for claim 20 above. See the discussions regarding claims 1 and 5 above for the details of this disclosure.

Claim 26 is rejected on the same basis as claim 14, in light of the basis for claim 20 above. See the discussions regarding claims 1 and 14 above for the details of this disclosure.

Referring to claim 27, the system and method of Rehm in view of Venkatesh as applied to claim 26 above discloses the invention as claimed. See column 44, lines 51-56 of Venkatesh's specification, as well as the portions of Rehm's specification mentioned above, for the details of this disclosure. In particular, Venkatesh's dynamic playlist editing functions (supervisory component) uses a graphical user interface to visualize and manually manipulate elements [clips] and attributes [headers, etc.] of the canonical playlist as claimed.

Claims 28-29 are rejected on the same basis as claims 10-11, in light of the basis for claim 20 above. See the discussions regarding claims 1 and 10-11 for the details of this disclosure.

Claim 35 is rejected on the same basis as claim 5, in light of the basis for claim 31 above. See the discussions regarding claims 1 and 5 for the details of this disclosure.

Claim 37 is rejected on the same basis as claim 15, in light of the basis for claim 31 above. See the discussions regarding claims 1 and 15 for the details of this disclosure.

Claims 40-44 are rejected on the same basis as claims 10-14 respectively, in

light of the basis for claim 31 above. See the discussions regarding claims 1 and 10-14

for the details of this disclosure.

Response to Arguments

6.   Applicant's arguments with respect to claims 1-44 have been considered but are

moot in view of the new ground(s) of rejection.

Regarding applicant's arguments against the Venkatesh reference individually,

one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed.

Cir. 1986). Applicant's arguments against Venkatesh are moot in view of the new

grounds of rejection applied above as the rejection is based on a combination of

references, not just the Venkatesh reference individually.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. The US Patent references are considered pertinent to applicant's

disclosure, and/or portions of applicant's claimed invention, while the SMIL 1.0

Specification is considered pertinent to portions of applicant's claimed invention.

8.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Brian Goddard whose telephone number is 703-305-
7821 until 21 October 2004, and 571-272-4020 after that date. The examiner can
normally be reached on M-F, 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Safet Metjahic can be reached on 703-308-1436 until 21 October 2004, and
571-272-4023 after that date. The fax phone number for the organization where this
application or proceeding is assigned is 703-872-9306.

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02 September 2004
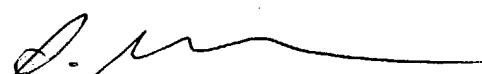
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